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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/717,458

11/20/2000

James B. Nichols

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06/12/2006

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SALT LAKE CITY, UT 84111

EXAMINER

BOCCIO, VINCENT F

ART UNIT

PAPER NUMBER

2621

DATE MAILED: 06/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/717,458

Applicant(s)

NICHOLS ET AL.

Examiner

Vincent F. Boccio

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on Election of 2/27/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) 7-12, 23-26 and 36-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 13-22, 27-35 and 39-53 is/are rejected.
- 7) ☒ Claim(s) 54 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/25/02</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

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**DETAILED ACTION**

The Group and/or Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 2621.

**Election/Restrictions**

1. Applicant's election with traverse of restriction in the reply filed on 2/27/06 is acknowledged.

The traversal is on the ground(s) that species I & II are obvious over each other.

This is not found persuasive because applicant elected Species VIII, Fig. 8, not deemed to be obvious over, species I & II.

Applicant further states, Figs. 1-4 are distinct from Figs. 5-8.

In response the examiner agrees.

The examiner accept the elected claims.

The requirement is still deemed proper and is therefore made FINAL.

**Claim Rejections - 35 USC § 102**

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 5-6, 16, 17, 21-22, 29, 39-41, 43-44, 46, 47, 50, 51, 52 are rejected under 35 U.S.C. 102(e) as being anticipated by Van Der Meulen (US 6,563,769).

Regarding claim 1, Meulen, discloses and meets the limitations associated with a multimedia transfer apparatus comprising:

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- a plurality of readers (col. 3, lines 10-, Fig. 1, with respect to Fig. 2, readers met by playback devices 130, see more than one in Fig. 1);
- one or more encoding modules to encode the read data from the readers in a specified encoding format (col. 3, a plurality of encoders, "MPEG or Philips' DCC audio compression, can be applied to compress each recording for efficient archiving ... MPEG encoding of a full length movie,");
- a data communication interface (Fig. 1, "network", part of integrated system 200, col. 3, lines 22-) to copy encoded data to a media storage and playback apparatus (Fig. 1, archive 110, 120 s).

Regarding claims 5-6, Meulen discloses CD or DVD, drives and media (col. 5).

Claims 17, 21-22, 29, have been analyzed and discussed with respect to the claims above.

Regarding claims 30-32, Meulen further discloses and meets the limitations of identifying and reading first, second, even third, CD, DVD related data stored to a database, being searchable or reading from the database, col. 5. "storage of identification 321 and information 341".

Regarding claim 39, Meulen meets the limitations of transporting a multimedia transfer device, to a user's home, reading, encoding, storing and/or archiving, wherein a mass storage at the user's home (col. 3, lines 22-, Fig. 2).

Regarding claim 40, Meulen further meets the limitation of indexing the content on the mass storage on behalf of a/the user (Fig. 6 A, "Joe's", col. 2, home computer or PC).

Regarding claim 41, Meulen further meets the limitation of identifying, content, with a coded transmitted over a network link from a user's home to a content database and downloading information related to the content from the database (col. 5, searchable database), search the database from a user's PC at home.

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Regarding claims 43, 44, 45, 46, 47, Meulen further provides for identification information, such as title and track information (col. 5, title, & performer, etc. of each selection of the CD, or each song or program, on songs on tracks), wherein the title is of the album/CD/DVD, cover or disc or CD or DVD cover information of captures or used (col. 5), lyrics (col. 4, lines 49-54, "lyrics"); wherein further providing information related to the artist (col. 5, see "performing"), interactive content met by hyperlink address related to the recording (col. 4, lines 50-).

Regarding claims 50, 51, Meulen further meets the limitations of downloading concurrently with the transferring (col. 6, lines 53-, "material can be buffered into storage and then presented from storage and processed from storage simultaneously"), wherein the transferring can be done after archiving.

Regarding claim 52, Meulen is deemed to meet the limitation of monitoring efficiency with which the content is transferred (col. 6, lines 56, "the difference of rate causes the buffer to approach its limit of capacity, at which time the processing is slowed down").

**Claim Rejections - 35 USC § 103**

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the

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examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 2, 3, 4, 13-14, 15-16, 18-20, 27-28, 33-35, 42, 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Der Meulen (US 6,563,769).

Regarding claim 2, Meulen uses either hardware or software or possible a combination thereof, but, is silent with respect to the encoders and

fails to disclose the encoders modules are comprised of hardwired logic.

The examiner takes official notice that software and hardware versions of encoders are well known, hardware types are faster and don't drain the MIPS of an associated CPU controller of the system, although more expensive than software, each version has its advantages, therefore, it would have been obvious to one skilled in the art at the time of the invention to provide hardware encoders that are potentially faster and do not utilize MIPS of associated CPU as a software version, as is obvious to those skilled in the art.

Regarding claims 3-4, Meulen discloses CPU for executing a transfer program scheduling reading the writing of the data by the media readers and encoding of the data by the modules (col. 4, line 62- to col. 5 lines 34), therefore, also provides for handling reading and encoding to the archive at the same time, of in parallel (reading, encoding to a desired or required, format and recording to the archive).

Regarding claims 13-14, Meulen discloses MPEG & DCC, for audio, MPEG for video, but, fails to disclose MPEG 2 and AC3.

The examiner takes official notice that MPEG 2 & AC3 are well known compression for video and audio, therefore, it would have been obvious to those skilled in the art at the time of the invention to include other audio and video compression encoders thereby providing digital content in other forms, thereby providing a higher level service, utilizing additional encoding formats, such as MPEG 2 and AC3 in addition to what is disclosed, as is obvious to those skilled in the art.

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Regarding claim 15, Meulen fails to particularly disclose control logic to prevent ejecting any disc or opening tray at such time that would endanger the operator or media.

The examiner takes official notice that preventing opening of a disk drive while in operation, thereby preventing damage to the media is well known in the art, therefore, it would have been obvious to one skilled in the art at the time of the invention to modify Meulen by incorporating preventing removal of any disc or opening of a tray thereby prevent or delay the removal until ready to release without damage, to prevent damage to the media, at the times when in use or when actively reading or writing.

Regarding claim 16, Meulen discloses and meets the limitation of a multimedia transfer apparatus as in claim 1, interconnected via local high speed network to form an integrated processing ensemble of higher capacity, but

- fails to disclose a plurality of multimedia transfer apparatuses.

Since the transfer system is a server, which is connected to other user's, thru a network and the examiner takes official notice that current data networks comprise multiple servers serving archived information or data, to multiple users, it is deemed obvious to those skilled in the art at the time of the invention to duplicate claim 1, as taught by Meulen, to add servers of the same configuration to share materials of users with for example their PCs, with other users with their PCs, on a network, as is obvious to those skilled in the art.

Claims 18-20, 27-28 have been analyzed and disclosed with respect to the claims above.

Regarding claim 33, Meulen is deemed to meets the limitation of first and second media reading at the same time encoding and storage (col. 6, "storage and processed from storage simultaneously" or in parallel), in view of multiple readers and encoders and storage/archive units, but, fails to particularly disclose third and first and second and fourth encoding and transmitting all for storage and playback.

The examiner takes official notice that having more readers and writers as suggested by Meulen is deemed obvious on a server system, add capacity when needed and to utilize more source devices is also obvious, therefore, rendering obvious to read third and first in parallel and to encode the third in parallel

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with other reading and writing functions, such as reading in parallel a second and fourth and encoding and transmitting to storage the first, second, third and fourth, as is obvious with more sources and playback devices on the system, more and more processes, playback, processing and recording, can be done at the same time or simultaneously, or in parallel.

Claims 34-35 have been analyzed and disclosed with respect to the claims above, wherein the related information from the media being CD/DVD (first, second, third, fourth .....), DVD/CD, media and players) and others is stored to a database for searching and retrieval, as address above (col. 5 etc.....).

Regarding claim 42, Meulen discloses a digital signature col. 5 for that is derived from each segment, but, fails to disclose using a hash or hashing code to ID the content using a fingerprint of the content.

The examiner takes official notice that Hash for determining content is well known using a fingerprint of the content to determine, therefore, it would have been obvious to one skilled in the art at the time of the invention to utilize a Hash process or function to identify content as is known in the art as a means to search and locate content as is conventionally known in the art.

Regarding claim 53, Meulen fails to disclose determining by statistical analysis performance parameters gathered during a/the transfer.

The examiner takes official notice that determining performance parameters is done during a transfer process of recording or reproduction, which are different, thereby determining performance parameters to determine the ability to perform, as is well known, therefore, it would have been obvious to one skilled in the art at the time of the invention to incorporate statistical analysis of performance parameters to determine the ability of the drives to perform the tasks of the system, as is deemed well known in the art.

#### ***Allowable Subject Matter***

1. Claim 54 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art fails to disclose, suggest or anticipate claim 54, as recited, that performance parameters include, disc processing rate, transfer apparatus duty cycle and length of time one or more drives are empty.



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**Contact Fax Information**

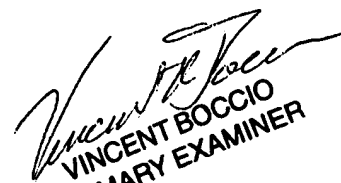
Any response to this action should be faxed to:

(571) 273-8300, for communication as intended for entry,  
this Central Fax Number as of 7/15/05

**Contact Information**

Any inquiry concerning this communication or earlier  
communications should be directed to the examiner of  
record, Monday-Tuesday & Thursday-Friday, 8:00 AM to 5:00  
PM Vincent F. Boccio (571) 272-7373.

Primary Examiner, Boccio, Vincent  
5/15/06

  
VINCENT BOCCIO  
PRIMARY EXAMINER